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Message Text

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ACTION L-03

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E.O. 11652: N/A
TAGS: ILC, UNGA
SUBJ: SIXTH COMMITTEE (LEGAL) -- MULTILATERAL TREATY-
MAKING PROCESS

SUMMARY. AUSTRALIA HOSTED INFORMAL MEETING TO DISCUSS ITEM ON REVIEW OF THE MULTILATERAL TREATY-MAKING PROCESS. ONLY HESITANT COMMENTS WERE FROM IRAN AND INDIA WHO MADE KNOWN THEIR CONCERN THAT THIS EXERCISE NOT BE AN ATTEMPT TO RETURN DRAFTING OF ALL MULTIALTERAL TREATIES TO "THE TECHNICIANS". END SUMMARY.

1. AUSTRALIA, INITIATOR OF ITEM, CALLED INFORMAL MEETING OF INTERESTED DELEGATIONS TO DISCUSS SUBSTANCE OF ITS ITEM.

2. AUSTRALIA (LAUTERPACHT) MADE INTRODUCTORY REMARKS IN WHICH EMPHASIZED THAT IITEM WAS INTENDED DEAL WITH PROCEDURE OF TREATY-MAKING AND NOT WITH SUBSTANCE OF TREATIES. ALSO STRESSED THAT THIS WAS NOT POLITCAL EXERCISE AND NOTED CO-SPONSORS CAME FROM ALL REGIONS. SAID THAT ITEM SHOULD NOT BE INTERPRETED AS ATTACK UPON ILC OR UN SYSTEM OR ANY SPECIFIC METHOD OF TREATY-MAKING BUT ONLY ATTEMPT TO REVIEW AND ANALYZE PROCESS TO SEE IF IMPROVEMENTS POSSIBLE. SAID REASONS FOR ITEM INCLUDE: LIMITED ACCEPTANCE OF SOME RECENTLY DRAFTED TREATIES; LACK OF A STUDY OF METHODS; EXISTENCE MORE STATES; INCREASINGLY TECHNICAL SUBSTANCE
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OF TREATIES; LACK OF CONTINUITY BETWEEN STATE DELEGATIONS TO CODIFICATION EXERCISES.

3. AUSTRALIA HESTITATE TO MAKE PREDICTION AS TO FINAL RESULT OF EXERCISE, BUT EXPRESSED OWN OPINION BECAUSE PRESSED BY SOME STATES. SAID EXPECTED FIRST RESULT WOULD BE COMPILATION OF MANUAL OF PRACTICE AND REGARDS TREATY-MAKING

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SO THAT STATES WOULD HAVE AVAILABLE ALTERNATIVE METHODS OF TREATY-MAKING WHEN CONFRONTED WITH NEED FOR NEW CODIFICATION. SAID ALSO MIGHT MAKE TECHNICAL RECOMMENDATIONS WITH RESPECT TO EACH STAGE OF PREPARATION OF A TREATY. STRESSED THAT FINAL WORK WOULD NOT BE STRAITJACKET FOR FUTURE CODIFICATION.

4. FOLLOWING PRESENTATION, COMMENTS FROM STATES WERE SOLICITED. PAKISTAN PRESSED AUSTRALIA ON UTILITY OF EXERCISE AND WONDERED WHETHER REASON RECENTLY DRAFTED TREATIES NOT RATIFIED WERE TECHNICAL OR POLITICAL.

5. INDIA (JAGOTA) MADE VERY SUBTLE INTERVENTION TO EFFECT THAT ALTERNATIVE CODIFICATION PROCESSES HAD BEEN DEVELOPED BECAUSE CERTAIN COUNTRIES LACKED CONFIDENCE IN ABILITY OF TRADITIONAL METHODS PROGRESSIVELY TO DEVELOP RATHER THAN SIMPLY CODIFY INTERNATIONAL LAW. SUPPORTED AUSTRALIAN INITIATIVE FOR STUDY OF PAST METHODS OF TREATY-MAKING BUT SAID CO-SPONSORS SHOULD NOT ATTEMPT NOW TO SAY WHAT RESULT OF EXERCISE WOULD BE.

6. AMONG SIMILAR LINES, IRAN (BEVAN) WONDERED WHETHER ITEM WAS ATTEMPT TO RETURN DRAFTING OF TREATIES TO "TECHNICIANS". AUSTRALIA EMPHASIZED THAT ITEM ONLY INTENDED TO PRODUCE COMPILATION OF ALTERNATIVE METHODS OF TREATY-MAKING.

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7. MEETING WAS EXTREMELY WELL ATTENDED, WITH ABOUT FORTH REPRESENTATIVES FROM ALL REGIONS. THERE WAS NO DIRECT OPPOSITION TO ITEM; HOWEVER, STATEMENTS OF INDIA AND IRAN SERVED TO FLAG CONCERN OF DEVELOPING COUNTRIES THAT ITEM NOT LIMIT THEIR ABILITY CHOSE ALTERNATIVE METHODS OF TREATY-MAKING.

8. SUBSEQUENT CONVERSATIONS WITH SOVIETS AND OTHERS INDICATES THAT ITEM LIKELY HAVE RELATIVELY SMOOTH SAILING IN GA.
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